

Point 2. of the Staff Committee assignment reads as follows:

"As a corollary to (1) above analyze the effectiveness of U.S. unilateral controls in the light of current U.S. economic defense policy."

The following presentation continues the analysis provided for Point 1. and is part b.D. in the analysis:

b.B. Effectiveness of unilateral U.S. controls in achieving basic U.S. control objectives:

(U.S. control objectives are discussed under b.A. above).

1. Scope of unilateral U.S. controls toward Soviet bloc: there are two basic areas of these controls - (a) items for which a validated export license is required but which are under a presumption for approval for Soviet bloc destinations and (b) items and technical data for which a validated export license is required and which are under a presumption for denial for Soviet bloc destinations. Group (a) consists of a very large coverage of trading goods - probably 90% or more of the total field. Group (b) consists of items unilaterally denied by the U.S. for reasons of (1) strategic significance for Soviet bloc in combination with judgment that impact on Soviet bloc would be effective, (2) strategic significance and judgment of "clear military importance" even though no effective impact on Soviet bloc is clear and (3) a broad range of technical data excluding such pure research and published data available to general public.

2. Effectiveness of unilateral controls:

(a) Items under presumption of approval for Soviet bloc: both the controls and policy should continue as at present; are effective because they provide (1) opportunity for qualitative and quantitative review of developments for which constant investigation and evaluation cannot be effectively carried out - thus offering opportunity to prevent unintentional major losses to security, and (2) administrative leeway accommodates changes in policy toward entire Soviet bloc, U.S.R. or individual satellites without open change in regulations. Deemed valuable in terms both security and foreign policy considerations.

(b) Items under presumption of denial for Soviet bloc:

(1) Items deemed to have effective impact on Soviet bloc: controls have effective impact and no basic change necessary. These items total 39 (8 items on Tab 9); during U.S. list review in 1958 they were judged to be of strategic significance and U.S. unilateral control viewed as effective in imposing adverse impact on Soviet bloc. Degree of effective unilateral control varied but in each instance was judged to have effective impact. List review conclusions still basically valid. Further information and analysis could lead to changes; normal procedures exist for such review.

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Effectiveness of U.S. unilateral controls can be increased by anti-frustration measures. No problem foreseen in application of usual measures taken toward Free World countries to prevent, on a case-by-case basis, frustration of U.S. control policy so long as adequate provision continues for consideration foreign policy and other relevant considerations prior to decisions. State would oppose extreme actions.

Major issue exists as to expanding application Treasury's transaction controls. Defense and Commerce view is to expand transaction controls on selective basis where can be used effectively to increase impact on Soviet bloc and would not have serious demonstrable adverse impact on relations with friendly governments. Treasury would agree to extension of controls where they would demonstrably be effective but only if such action would not be harmful to present controls and would not produce foreign relations reactions of a harmful nature. It believes that extension of transaction controls over technical data would be ineffective and that desired results could be better achieved under Export Control Regulations. It believes that the burden of proof regarding extension of transaction controls lies with the proponents of this proposal. State Department opposes any expansion of transaction controls on basis any such expansion would be harmful to foreign relations. (See Tab 10 for fuller statement on issue.)

(2) Items not deemed to have effective adverse impact on Soviet bloc: these controls should be continued even though have no effective impact on bloc. Out of the recent list review case 116 such items. Most of these items possess "clear military importance" and approval on such goods would harm trade control program and U.S. posture in Free World on cold war. No real basis for anti-frustration measures exist in this connection.

(c) Technical data subject to presumption for denial for Soviet bloc: most technical data are subject to a denial policy. Effectiveness of current denial policy on proprietary technical data and services varies widely depending on the technical data involved and the type of U.S. controls being applied. Current policy provides for an area of approval of technical data to the bloc but does not spell out what this area is. Actual practice has defined this area as consisting of technical data not related to commodities subject to a denial policy. This takes no cognisance of such issues as Soviet economic penetration or broad expansion of the Soviet industrial base.

The Department of State and the AEC control certain technical data relevant to their fields.

Technical data on which denial policy can have effective adverse impact on Soviet bloc: the major areas of effective impact lie to some degree in industrial research fields but primarily in the translation laboratory and pilot plant developments into practical engineering of plant and process operation for economic and high volume production.

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The impact on the Soviet bloc derives largely from the high costs in investment of time, advanced skills in some of which the Bloc is lacking and in facilities many of which are very costly and must be specially designed. The availability of such technical data could not only speed up performance under Soviet bloc production plans but could also permit major changes therein; indirectly, such denial also tends to limit the fields which the Soviet bloc might otherwise be able to utilize in later economic penetration and market disruption efforts.

Effectiveness of technical data control techniques: Current U.S. technical data controls consist of a mandatory control over direct or indirect exports to the Soviet bloc and a voluntary system over such exports to Free World countries to prevent shipment to Soviet bloc through third countries. The extent to which the possible effectiveness described in the preceding paragraph can be achieved depends on the effectiveness of these control techniques. The mandatory control over direct shipment to Bloc is reasonably effective but could probably be improved by wider publicity. The mandatory license requirement for indirect export to Soviet bloc via third countries is much less effective. It will generally be effective where proposed shipments are so large or striking in character that the proposed shipment and enough of its details are brought to light fairly early. Good examples are several of the chemical plant technology cases now under review. In other instances, however, the cases may not be brought to light, foreign firms may not clearly know their responsibilities under U.S. regulations, i.e. technical data involvement may be initially unclear, and, in any case, they may export equipment and materials from which U.S. technology is extractable and not be in violation of present regulations. This voluntary system was intended to help remedy these defects. It has been helpful but remains inadequate. While it can and should be strengthened by wider publicity and consultation with industry, it cannot be relied on in the more significant areas. Since the system is voluntary, not all firms will consult before acting and technical data and services may be exported and long term contracts made without the control officials ever being aware of them so that questionable cases could be examined and precautionary action taken to insure continued denial to the Bloc. Even where cases are brought to attention of control officials the resulting advice need not be followed. The best assurance of effective control is a mandatory license requirement for exports of important technical data to Free World countries. Mandatory controls toward Free World countries have been under examination and inter-agency advice on Commerce proposals is being sought in the ACIF structure. At best the application of such mandatory controls will be over important but relatively narrow fields. Therefore, the effectiveness of the control techniques on the remaining technical data will require improvement in the application of current techniques.

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Technical data on which denial policy has less clear adverse impact on Soviet bloc: controls are effective in some areas and ineffective in others. Control should be maintained but extent of denial policy should be reviewed. In many industrial areas effective control techniques can clearly impose an effective unilateral impact on the Soviet bloc with the imposition of significant additional costs. Here denial policy should be continued. In other areas the significance of the technical data now under control may be unclear in terms of impact on the Soviet bloc. Here controls should be continued to permit preventive action where important data is uncovered but it is doubtful if current denial policy need be continued over entire area since in many of these areas there is clear availability from other Free World sources and denial may have no effective impact on Soviet bloc.

The relationship of Treasury Transaction Controls to technical data controls is discussed in Tab 10.

Note on Diversions Relative to Soviet Bloc Needs:

Even the limited enforcement and investigation facilities presently available have uncovered hundreds of violations of U.S. controlled goods each year which include numerous diversions to the Soviet bloc. Each year the cases for investigation have been chosen on an increasingly selective basis and the number of diversion cases to the Soviet bloc has been increasing. Of the 115 current investigation cases about 35% involve actual or attempted transhipments to the Soviet bloc.

The principal areas of current diversion efforts appear to cover electronic testing and measuring equipment, research laboratory equipment, electronic components, and boron materials.

Embargoed boron materials, for which the U.S. is the principal world supplier provide a good example of diversionary activity. Since 1955 more than 35 full scale investigations have been conducted on illegal diversions of boron materials. These attempts have involved all of the usual diversionary techniques and trading routes with new routes being constantly devised as earlier ones are blocked; some diversions have been prevented; others have succeeded. So far 17 firms (3 - U.S.; 14 - foreign) have lost their exporting privileges because of these diversions; other cases are now under compliance proceedings involve 7 other parties in five countries.

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